

Shelby County Smart Growth Initiative

Mayor A C Wharton, Jr.
April 21, 2003



Shelby County Smart Growth Initiative

Phase I Projects and Programs

- I. Review and Update the Land Development Regulations
- II. Implement Shelby County Residential Corridor Ordinance
- III. Review Capital Improvement Program
- IV. Develop Memoranda of Understanding with Suburban Municipalities
- V. Amend the Major Road Plan
- VI. Create a Shelby County Landmarks Commission
- VII. Adopt an Adaptive Reuse Policy for Public Buildings and Functionally Obsolete Commercial Structures
- VIII. Revise Sign Regulations to Eliminate Pole Signs
- IX. Adopt an Ordinance Prohibiting Posting of Notices in Public Rights-of-Way and on Public Property
- X. Develop a Local Street Network Plan
- XI. Develop Minimum Standards for Construction on Homestead Lots and other Residential Real Estate Sold by Shelby County
- XII. Enact an Adequate Facilities Tax

Shelby County Smart Growth Initiative

Phase I

Introduction

In the Fall of 2002 Mayor A C Wharton convened a series of meetings of the Alliance for Equitable Growth. The Alliance for Equitable Growth brought together a broad cross section of Shelby County citizens who are interested in formulating policies that will allow the County to grow in a way which will protect the environment, reinvest in urban areas, brings economic opportunity to all residents, provide for intelligent infrastructure investment and stimulate housing choices. The Alliance for Equitable Growth culminated in a Smart Growth Summit held in March that was attended by over 300 citizens, community leaders, homebuilders and developers, environmentalists, neighborhood activists, educators, city planners, prominent business persons and government officials.

As a result of the Alliance for Equitable Growth process and the Smart Growth Summit, a Smart Growth Initiative has been formulated which will help Shelby County policy leaders, citizen groups and government entities guide growth and development not only in suburban and rural areas, but in older urban areas as well.

Smart Growth is as much about revitalizing and redeveloping older areas as it is about guiding the type, amount and timing of new communities on the urban fringe. Practicing Smart Growth is not just about how many homes and businesses that are built each year, it is about providing a quality of life to all Shelby County residents that allows everyone to live where they want to live, go to the schools they wish to attend, have access to shopping and employment centers and while protecting the environment. Smart Growth is fiscally responsible.

The Phase I Initiative

The purpose of Phase I of the Smart Growth Initiative is to present to the County Commission a series of policies and programs that can be started within a reasonable timeframe to begin improving the physical, social and economic conditions in all of Shelby County. It provides for some new tools to help in decision-making and calls for reworking and updating some tools that are already in hand.

There are 12 steps in the Phase I. They encompass many subject areas from sign control to transportation policy; from protecting historic resources to revitalizing obsolete commercial and industrial properties; from updating basic land development regulations to allow for more innovative building and development techniques to recovering some of the monumental costs the County has incurred as a result of past land development policies.

Phase I is the first step in a continuous process. Additional policies and programs that address the objectives identified through the Alliance for Equitable Growth will be outlined in the next few months. Phase II of the Smart Growth Initiative will identify additional environmental policies, urban infrastructure programs, housing choice and economic development programs.

I.

Land Development Regulations

(Zoning and Subdivision Regulations)

The Memphis and Shelby County zoning Ordinance was originally adopted in 1980 and the Subdivision Regulations were adopted in 1986. There is a need to review and update both of these important planning tools to reflect the principles and techniques of smart growth.

A Request for Proposals will be issued within the next several weeks to retain the services of a nationally recognized consulting firm to develop a new Land Development Code for Memphis and Shelby County. The new Code will build on what we have now, but will reflect the challenges of developing our County in the 21st Century. We hope to address the unique challenge of offering regulations which enable both the redevelopment of inner-City Memphis and encourage healthy, new development on our urban fringe.

The updated land development regulations will consider such factors as:

- Creation of walkable communities
- Breaking down barriers for redevelopment and revitalization of inner City Memphis
- Creating and encouraging compact development on the urban fringe
- New, workable mixed use zoning districts that blend commercial and residential uses (such as those created in the South Central Business District – residences on 2nd floor, offices/shops on street level)
- Approving the appearance and accessibility of neighborhood commercial districts
- Provide for new roadway design standards that offer smaller street widths in neighborhoods and improved connectivity
- Eliminated cove street developments
- Eliminate 2 acre subdivisions on septic systems which disguise the need for urban services
- Requiring a master plan for all commercial planned developments and subdivisions
- Development of subdivision standards that are reflective of the entire community, not just the suburban areas; differentiate standards within the I-240 loop and the edge community
- Meaningful preservation of open space and natural areas
- Meaningful contributions and dedications by the development community
- Preserve the urban fabric
- Allow for new and unique employment arrangements
- Consider innovative design

II.

Implement Residential Corridor Ordinance in the County

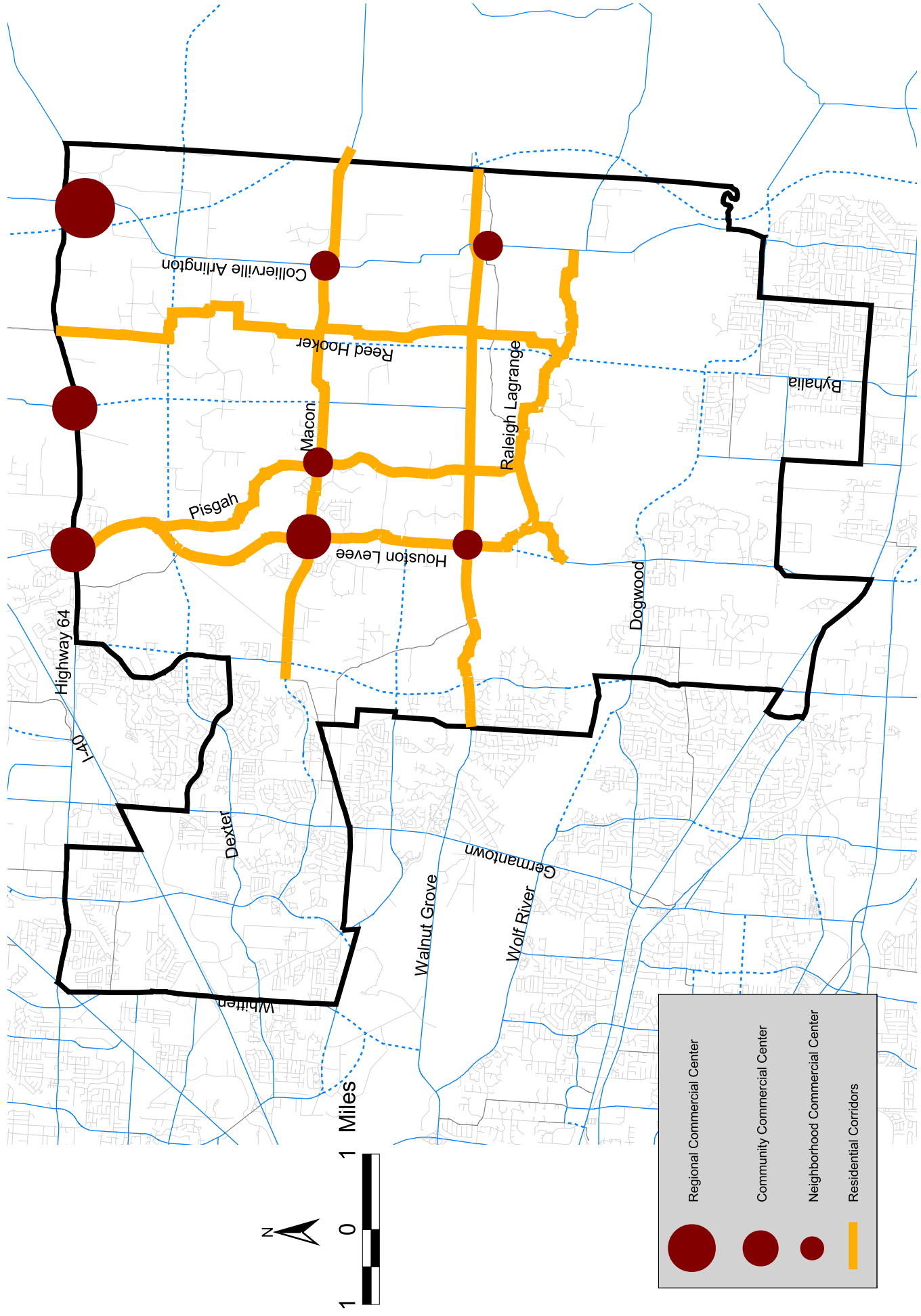
The purpose of this designation in comprehensive planning is to help maintain the residential land use along selected road segments. Shelby County has recently adopted a residential corridor ordinance and the next step is to designate specific roads, which will be set aside for residential development. The Grays Creek Plan recommended that seven road segments be designated as residential corridors.

Within the next 60 days, the Division of Planning and Development will present legislation to the County Commission to designate portions of the following roadways as residential corridors:

Pisgah
Houston Levee
Reed Hooker
Walnut Grove
Raleigh LaGrange
Macon

Following is a map, which illustrates the location of the proposed residential corridors.

Gray's Creek Residential Corridors



III.

Review Capital Improvement Projects for Compliance with County Plans and Policies

Designate the Division of Planning and Development as the central review agency for all projects prior to appropriation of funds

At present capital improvement projects funded totally or partially by County are not reviewed to determine if they comply with the adopted plans and policies of Shelby County Government. The Joint Resolution/Ordinance 2524 that created OPD requires that the County submit all CIP projects to Planning and Development to assure that they comply with adopted plans and policies

Planning and development should consider location factors that embrace the tenets of smart growth while measuring the fiscal impact of the projects. The community need, national/regional capacity and design standards as well as the appearance of the projects should be considered.

The projects should also be reviewed taking into consideration the provision for and/or participation of the service/project by other local governments.

This type of comprehensive review will enable the County to plan for orderly growth and will ensure that the placement and timing of construction of facilities is appropriate based on demonstrated need and future demographic/economic projections.

IV.

Develop Memoranda of Understanding with Suburban Municipalities for Joint Development Review

There is a need to negotiate formal agreements with the suburban cities for review of land development applications within their respective annexation reserve areas

The Chapter 1101 process created the Shelby County Growth Plan. This plan is a consensus of all cities and Shelby County on how the County will grow in the next 20 years. The Shelby County Growth Plan designated urban growth areas where urbanization is expected to occur in the next 20 years and rural areas which will remain at low density, protected from urban encroachment.

As a result of that planning process, municipal annexation reserve areas for every municipality in Shelby County were delineated. In order to correctly implement that plan, it is essential that planning and land development approvals be coordinated among all government entities. One step towards achieving that coordination would be to develop agreements between Shelby County and each of the suburban municipalities which recognize their future land use and service plans for their respective urban growth areas.

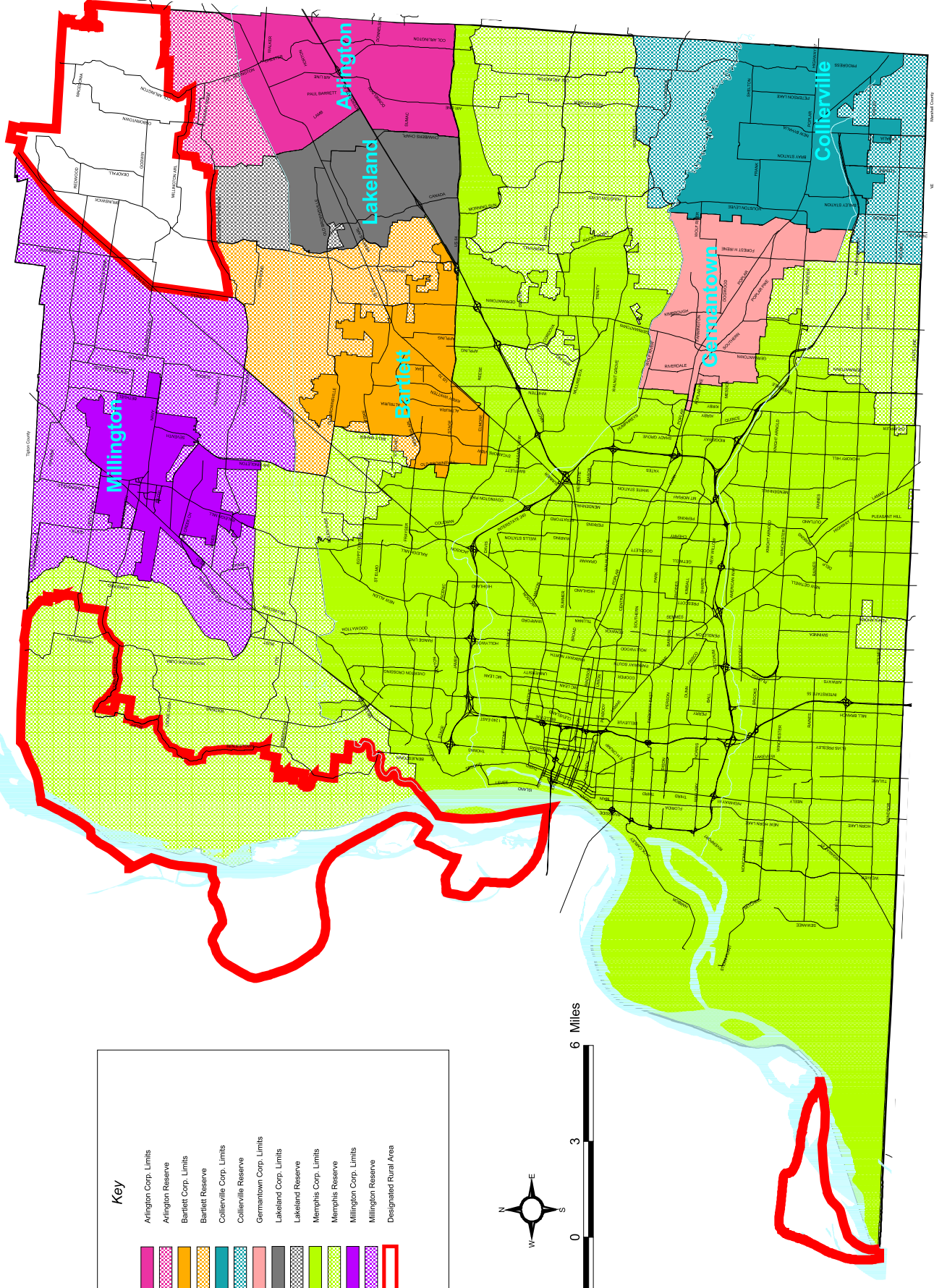
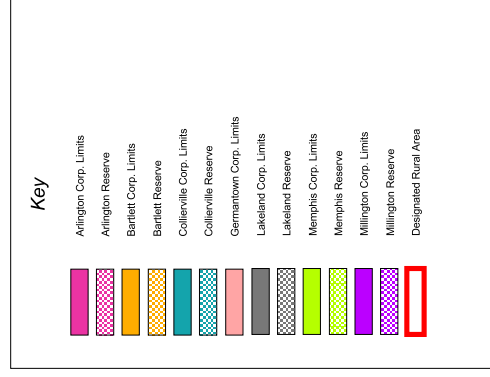
When the County Commission considers a case that is within a municipal annexation reserve area they should be provided with the position of the municipality in regard to its future land use and service plan. The Land Use Controls staff can not always provide the information because there is no formal requirement for any city to provide its position.

Land Use Controls staff currently asks for each city's comments on land development applications and if such comments are received they are incorporated in the staff report for consideration by the County Commission. This is a currently an informal process. It should be formalized and each city should be afforded the opportunity to go on the record about the type of development it wants to promote in the area that will eventually become part of its jurisdiction.

This process will not impede on the extra-territorial jurisdiction powers of the City of Memphis or the powers of the County Commission; it will only allow the cities to go on record with their concerns.

Following is a map of the municipal annexation areas as designated in the Shelby County Growth Plan.

ANNEXATION RESERVE AREAS



V.

Amend the Major Road Plan of the Metropolitan Planning Organization

There is a need to accommodate revitalization and redevelopment within older areas of Memphis and Shelby County by adopting a policy which will enable developers to invest more easily in urban properties.

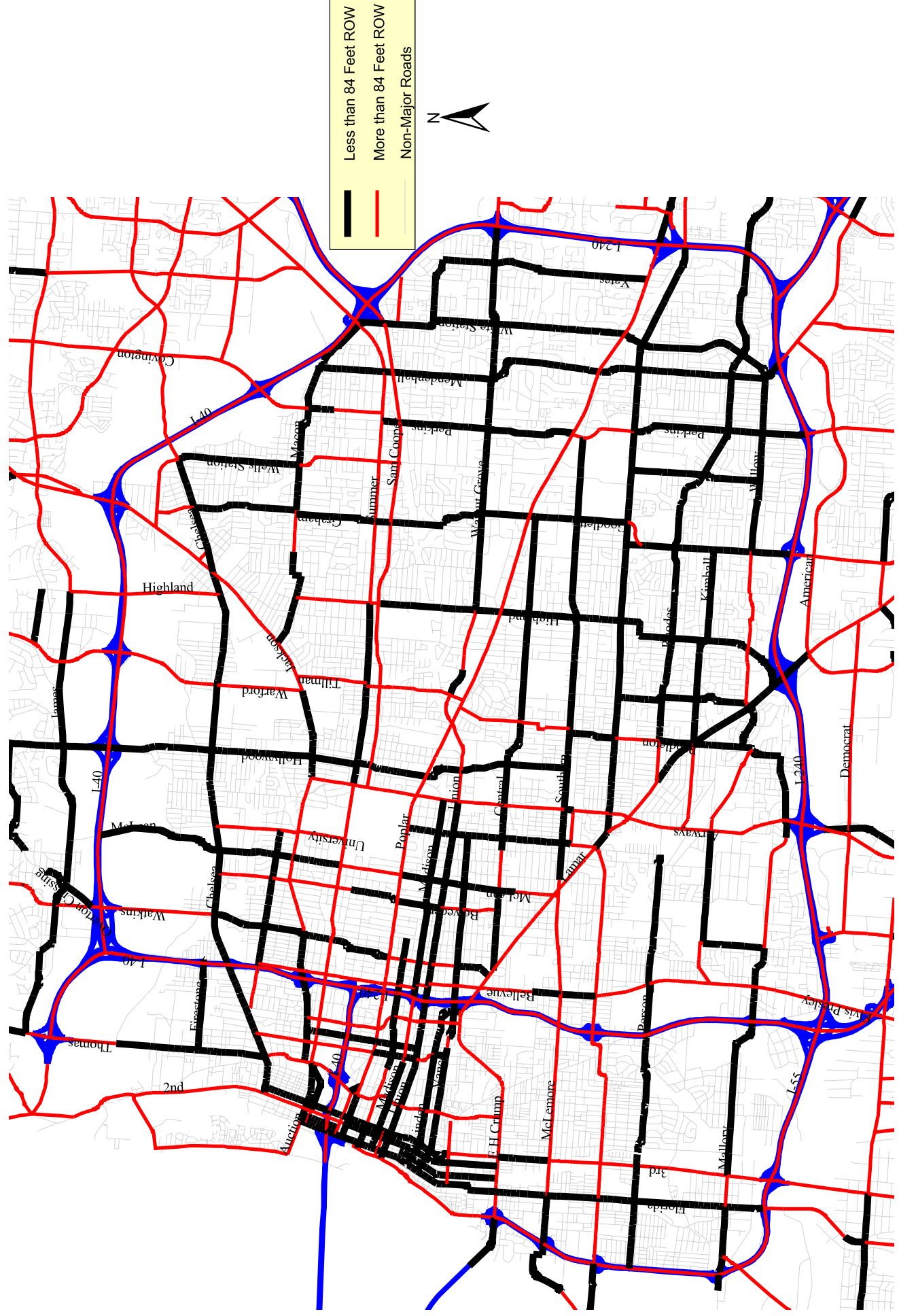
The Major Road Plan administered by the Metropolitan Planning Organization (MPO) is formulated using suburban transportation engineering standards. As such it recognizes a minimum 84-foot right-of-way for designated major roads. This presents a problem when infill development is being attempted in the City of Memphis. Often major roads (Jackson Avenue for example) were laid out using an 80-foot or less right-of-way. When property is proposed for redevelopment, the developer or land owner is required to dedicate and improve a wider right-of-way, usually losing 10 feet or more of developable land and disrupting the urban fabric.

This is a major barrier for infill development and particularly for revitalization of commercial corridors.

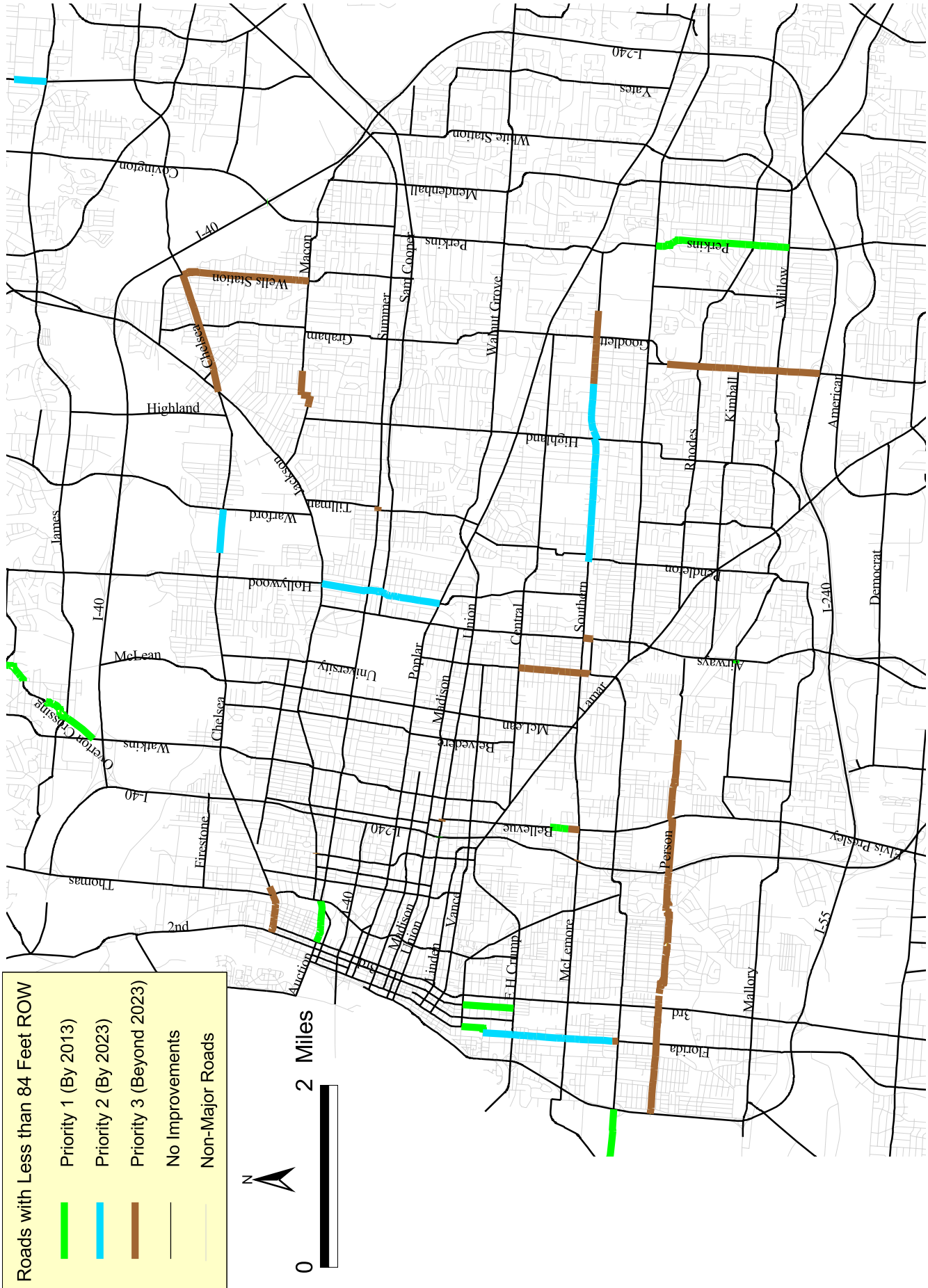
The staff of the MPO will identify those corridors within the City (and other areas as appropriate) that should be exempted from the requirement for a minimum 84-foot right-of-way. The staff will then make a recommendation to the MPO Executive Board to amend the Major Road plan to accommodate the unique requirements of urban redevelopment.

Two maps follow which identify roadways within the I-240 loop that will be considered for study and the Major Road Plan assigned priority for construction.

Right-of-Way for Major Roads Inside the Loop



Network Priority for Major Roads Inside the Loop



VI.

Create a County Landmarks Commission

A County Landmarks Ordinance would provide protection for historical properties in Shelby County's rural areas. It will enable these areas to be recognized for their historical value to the community while allowing compatible new development.

The residents of the Rosemark, Eads, Twin Oaks, Shelby Forrest and Bolton areas of Shelby County have become increasingly aware of their important historical position in the County. The early 1788 settlement patterns of Shelby County are still evident in many of these areas. The citizens of these areas have shown interest in having their unique communities recognized for their historic value.

The adoption of a County Landmarks Ordinance could be completed by the middle of the Fall of 2003. The Ordinance would set-up the duties and powers of the Shelby County Landmarks Commission (SCLC). The Commission would be comprised of five people from the county – one architect, one historian, and one member from the Land Use Control Board and two citizen positions. The SCLC would then assist those areas in the County that are interested in protecting their historical environment by designating County Landmark Districts. The SCLC would be jointly administered with the Memphis Landmarks Commission through the Division of Planning and Development.

VII.

Develop a policy which Encourages Adaptive Reuse of Public Buildings and Functionally Obsolete Commercial Structures

Memphis and Shelby County have many vacant public buildings and obsolete commercial and industrial structures which can be adapted for new uses. Vacant shopping centers and obsolete industrial buildings line our major road corridors in areas such as Whitehaven, Frayser and Hickory Hill. A policy, along with new flexible codes that will encourage the reuse of these properties should be developed.

Adaptive Reuse Codes would provide developers and interested property owners some incentive to reuse obsolete commercial structures. The current set of building codes is targeted towards new construction and makes the change in use of an existing structure difficult to achieve. It requires the developer to design and implement elements that are prohibitive in cost and time for the reuse of an existing structure.

By creating new Adaptive Reuse Codes for older structures the issues of life safety would be covered while allowing the restrictive elements of the new construction codes to be eased. This would bring down the cost of adapting the structure for a new use.

With a reduction in cost created by the adaptive reuse codes then the existing programs offered by Center City Commission, the IDB, MHA, MLGW and others could be utilized to reduce the number of obsolete commercial structures. Incentive programs could be developed by these agencies to encourage existing property owners to think progressively about their vacant or obsolete properties in the older areas of Memphis and Shelby County.

Additionally, there are many public buildings and churches throughout the County that are vacant or about to be vacated. Many of these buildings are schools and post offices in inner-City neighborhoods. These buildings can be given new life with a change in use. For instance a school may be able to be adapted to a senior citizen residential complex or a community center with a mix of government and commercial uses.

VIII.

Sign Regulations

Revise the current sign regulations to eliminate pole signs and to promote ground level monument signs in commercial areas

There is a need to reduce the size and appearance of signs in our neighborhood commercial corridors. The Division of Planning and Development has put together a committee of sign industry professionals, neighborhood groups, businessmen and planning staff to review the current ordinance and recommend changes to the County Commission and City Council.

The objective is to eliminate unsightly pole signs and replace them with ground mounted signs. The ordinance will promote signs by offering bonuses to those businesses that construct ground signs with materials that match the buildings of the commercial area and those that provide landscaping surrounding the base of the sign.

While not nearly as restrictive as the regulations in Bartlett, Germantown or Collierville, these changes will bring our regulations more closely in line with those municipalities.

The Division of Planning and Development plans to present draft regulations to the Land Use Control Board in May.

Following are pictures that illustrate landscape with large pole signs and more aesthetically pleasing landscape with ground mounted monument signs.







IX.

Adopt an Ordinance Prohibiting Posting of Notices in Public Rights-of-Way and on Public Property

Illegal posting of signs and notices on utility poles, traffic control devices and other public property is unsightly and a blight on the landscape

There currently is a proliferation of signs and notices being posted in public rights-of-way and on other public property. The current Shelby County Code needs to be amended to allow proper enforcement and prosecution of violators. The City Council of Memphis has recently passed the first of three readings on a similar ordinance to amend the City Code.

This change in the ordinance will allow Memphis and Shelby County Code Enforcement inspectors to issue citations to violators and pursue their prosecution. Each posting of an illegal sign or notice will be subject to a \$50 fine and the County will be enabled to recover the cost of locating and removing the postings.

The amended ordinance will hold the advertiser accountable for the posting of the sign if his/her business name, phone number or any other identifiable information appears on the placard.

The amendment does not apply to political signs otherwise regulated by the Memphis and Shelby County Zoning Ordinance.

Following are pictures which illustrate this problem and the proposed amendment to the Shelby County Code.





Item _____

Prepared by

Commissioner _____

Approved by

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 22, ARTICLE I OF THE CODE OF
ORDINANCES OF SHELBY COUNTY REGARDING THE POSTING OF
NOTICES OR OTHER SIGNS IN COUNTY RIGHT-OF-WAY, PARKS
OR OTHER PUBLIC PROPERTY**

WHEREAS, The existing Shelby County Code of Ordinances, Chapter 22, Article I, Section 22-1 prohibits the posting of notices on structures in parks and right-of-ways; and

WHEREAS, There currently is a proliferation of pole signs and other signs being posted in the public rights-of-way and on other public property; and

WHEREAS, it is appropriate and in the best interest of the citizens to prohibit anyone from recklessly or intentionally defacing or damaging any public building, work or other property; and

WHEREAS, In order to assure full and effective prosecution of violations of Section 22-1, it is appropriate and in the best interest of the citizens to amend the Shelby County Code of Ordinances, Chapter 22, Article I, Section 22-1 to enhance and strengthen the enforcement thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That Chapter 22, Article I, Section 22-1 of the Code of Ordinances of Shelby County, is hereby amended by deleting that Section in its entirety and by substituting in lieu thereof the following:

Section 22-1. Public property, works, etc., damaging or defacing, and regulating advertising and/or campaign notices on public property.

(a) No person shall damage or deface any public building, public work or public property.

(b) No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any public property, including but not limited to, any street, sidewalk, crosswalk, curb, or any other portion or part of any public way or public place or building, or any telephone pole, light standard, stop sign, railway structure, tree, bush or shrub, or upon any railings, gates, or other parts of any public bridge, viaduct, subway or overpass, or upon any other public property, right-of-way or easement granted to the County, except in accordance with the exception for the Memphis Area Transit Authority as set forth in Section 20-161(a) herein or when otherwise expressly authorized by law. No person shall remove, deface or otherwise tamper with any lawfully posted signs.

(c) Any notice, placard, bill, card, poster, advertisement or other paper or device as referred to in subsection (b) hereof, which contains a message attributable to a person or entity named thereon or an advertisement or telephone number notification for the benefit of a person or entity, or any properly authenticated photograph or videotape of same, shall be prima facie evidence that the notice, placard, bill, card, poster, advertisement or other paper or device was placed on public property in violation of this ordinance by the person or entity whose name appears thereon or whose telephone number appears thereon, or by their employee or agent while acting in the scope of their employment or agency and on behalf of the person or entity whose name or telephone number appears thereon.

(d) Each notice, placard, bill, card, poster, advertisement or other paper or device as referred to in subsection (b) hereof, found posted on public property in violation of this ordinance shall be deemed to be a separate violation of this ordinance. Each separate violation shall be punishable by a fine of \$50. In addition, in order to remediate the harm caused the County by any violation of this ordinance, the county shall be entitled to recover a penalty in an amount equal to the cost incurred in locating, removing and disposing of such material, provided however that such penalty shall not exceed two hundred dollars (\$200.00).

(e) The Division of Planning and Development through the Office of Construction Code Enforcement is hereby authorized to issue citations for violations of this ordinance and to act as the County's official representative in all prosecutions of such violations.

BE IT FURTHER ORDAINED, That this ordinance shall take effect fifteen days after the date of its final passage, the public welfare requiring the same.

Chairman, County Commission

A C Wharton, Jr., Mayor

Date

ATTEST:

Clerk of County Commission

First Reading:

Second Reading:

Adopted

Third Reading:

X.

Develop a Local Street Network Plan

“Walkable communities” is a broader concept than the ability of people to walk within their neighborhood. It also includes having all roads developed with a human scale. Achieving that scale requires an overall coordination of our major, collector and local streets in a street network, not a street system.

Develop a major road street network in the growth areas at a one-half mile grid, which will allow for the reduction in required lanes from six (6) to four (4). The physical design of the roadway could include either a continuous center turn lane in appropriate areas or in predominately residential areas a landscaped median. Six-lane roadways would be provided at a spacing of approximately three to five miles apart.

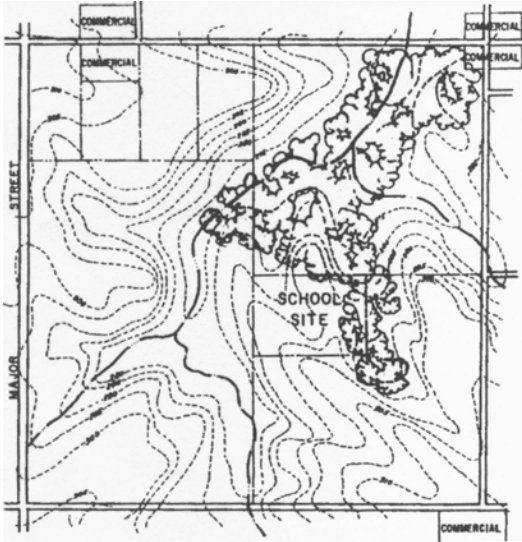
The plan would provide for the following:

- A required minimum of one north-south and one east-west collector street between major roads.
- An increased number of local, neighborhood streets in the suburban fringe and a provision for better/increased intersections with major roads.
- Implementation of the local street model outlined in the Long Range Transportation Plan that should serve as a prototype throughout the developing unincorporated area
- The factors outlined above will help produce walkable, livable neighborhoods, reduce the proliferation of reverse frontage lots and foster safe neighborhoods for children.

This concept will be included in the update of the Long Range Transportation Plan, which will be completed by the end of 2003. These policies would also be incorporated into the revised Land Development regulations.

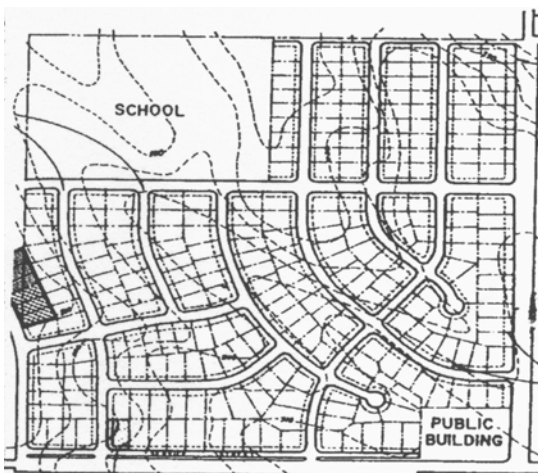
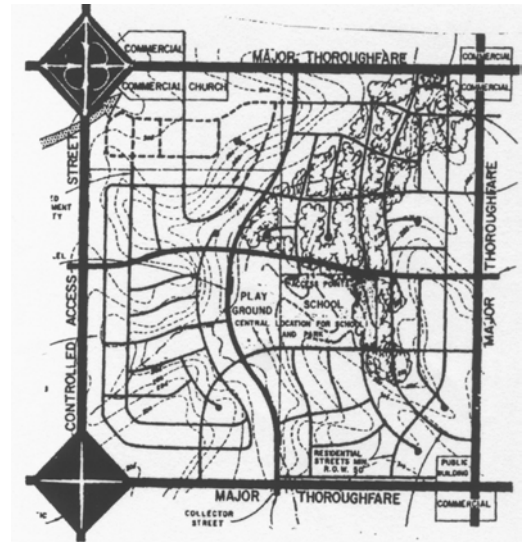
Following are examples of the local street network model.

Model Community Development



The land development unit is bounded on four sides by the major road network.

Within the basic development unit, a pattern of streets, including collector streets and local streets, provide the interconnection of the individual activities within the unit to the major road network.



Local streets provide access within a neighborhood unit to other activities within the neighborhood. This may include local schools and parks, institutions and commercial areas. Streets should always provide for a mixture of movements both vehicular and pedestrian, and be designed to provide a buffer between these types of movement.

XI.

Minimum Standards for Construction on Homestead lots and other Shelby County Real Estate

Housing is being constructed on Shelby County Homestead lots and other transferred property which is below the standard of surrounding properties. Often the homes offer less square footage and are poorly designed in relation to the character of the neighborhood. This results in lowering surrounding property values.

Housing rehabilitation, new construction, infill development and replacement housing are critical needs of inner-city neighborhoods in Memphis. The Shelby County Homestead Program utilizes tax-foreclosed properties to stimulate neighborhood revitalization and increase the affordable housing stock in Memphis and Shelby County. The County's Real Estate Office sells property outright to developers, adjacent property owners and others to encourage redevelopment while putting tax-foreclosed properties back on the City and County tax rolls.

Design review standards are being developed for these two County programs utilizing partnerships already created through the design guidelines established by the Memphis Design Review Committee of HCD/MHA and those developed for the Bicentennial Neighborhood Initiative and the Uptown redevelopment. These standards will mainly address visual concerns such as how a new building will be placed in line with others on the block, use of materials that are appropriate to the neighborhood, building size compatibility with the neighborhood and building orientation on a lot. DPD staff members are coordinating guidelines for Homestead and Real Estate with staff of the Memphis Design Review Committee at HCD. Input from community development corporations and neighborhood residents, especially those in North and South Memphis, where the bulk of the Homestead and Real Estate lots are located, will be incorporated in the guidelines to assure compatibility with the character of the various neighborhoods.

Following are pictures of a home located at 241 Quinn Rd next to Suggs Park in Collierville. It is one of three houses built by the Collierville CHDO and United Housing Inc. using HOME funds administered by the Shelby County Department of Housing. A ribbon cutting will be held for the homes in May.



XII.

Enact an Adequate Facilities Tax

Shelby County has traditionally had an over-reliance on property tax revenues for its operations and capital expenditures. The property tax burden has risen considerably over the past 15 years, yet the revenue generated by the property tax has not kept up with the demands of basic provision of government services. Shelby County must find alternative sources of revenue to offset the demands of shifting development in the suburban areas of Shelby County.

Analysis has shown that each new single family house valued at \$175,000 built outside the City of Memphis costs the County approximately \$4,030 annually for 20 years. Each new single family attached unit valued at \$160,000 costs \$2,227 each year for 20 years and each new apartment costs \$972 for the same period of time. These costs are the net cost to the County – after all related property taxes and development or user fees are collected.

These costs are directly related to the construction of facilities and the expansion of services to serve new development. A major portion of County expenditures are in the construction and operation of our schools.

Rather than continuing to increase the property tax to pay for those services that support new growth, we are proposing to levy an adequate facilities tax on all new construction. ***The adequate facilities tax is designed to be paid one time only.*** It is not a recurring tax that will be borne by the taxpayer each year and compounded over time.

This tax is designed to be paid at the time of construction. A portion of the fee would be paid when the building is permitted. The final payment would be made when the building receives a final inspection and is ready to be sold and occupied. The tax would be levied on all new building construction, both residential and non-residential.

The adequate facilities tax is not designed to hinder development. Rather, it is designed to help finance new schools, roads, parks, public health, public safety and other essential services demanded by the public.

This revenue source will be applicable Countywide. But, the adequate facilities tax will not be imposed in those areas that are part of the revitalization efforts of Memphis and Shelby County. We will not unduly burden low and moderate income homebuyers in Memphis and Shelby County. The tax will not apply in those target economic development areas where the median income is below 80% of the County or where the poverty rate is 20% or greater.

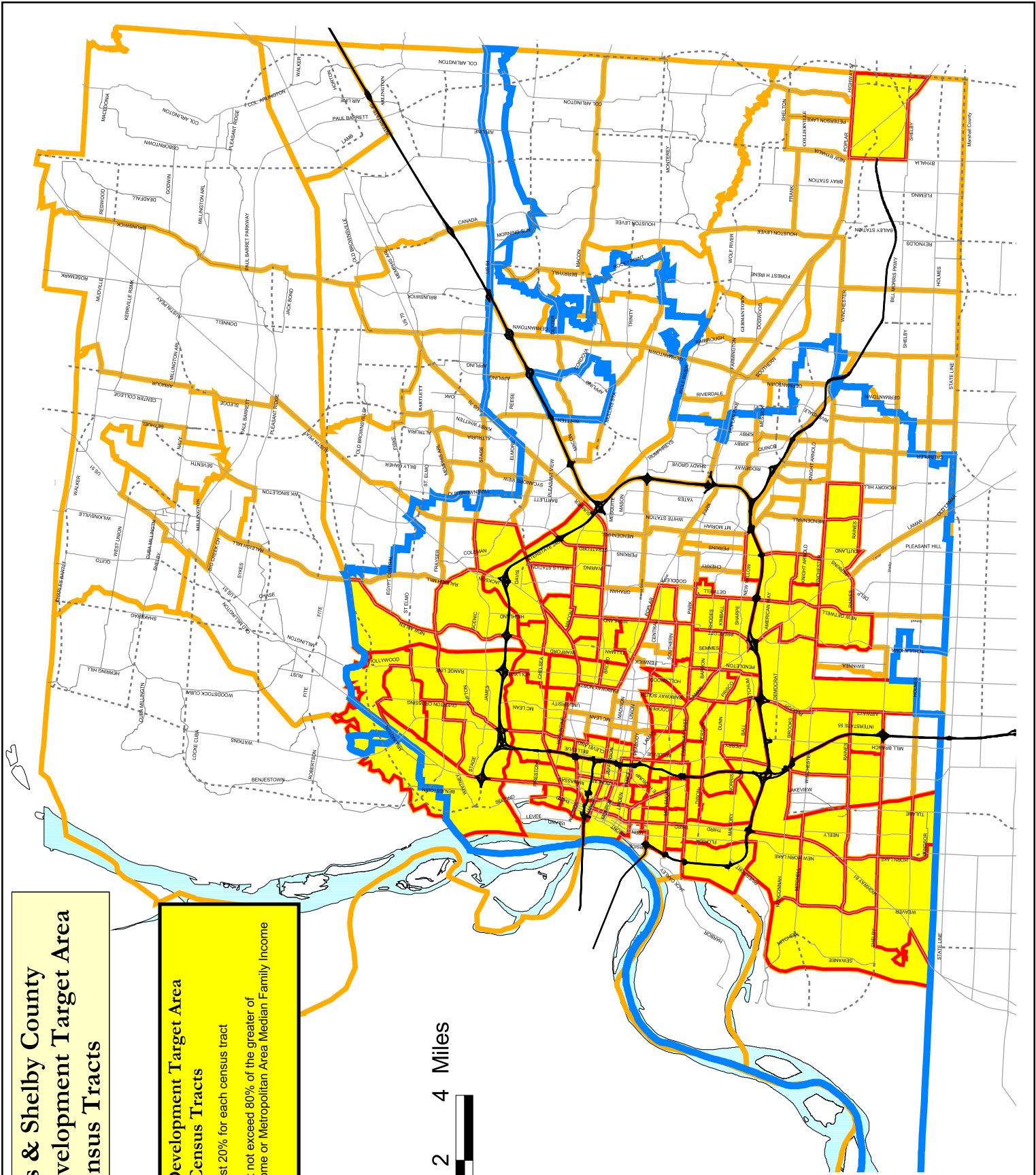
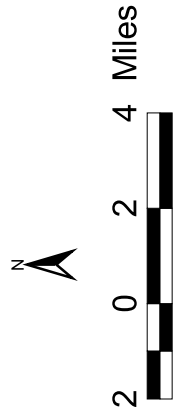
The adequate facilities tax will generate a minimum of \$4,000,000 per year and could raise up to \$8,000,000 per year depending on the final rate imposed on the new construction. A 2050 square foot home would generate \$2,050 at \$1.00 per square foot or \$1,538 at 0.75 cents per square foot.

Following is the proposed legislation to enact a Shelby County Adequate Facilities Tax, a map of the Economic Development Target Areas and a summary of development fees currently being charged in the metropolitan area.

Memphis & Shelby County Economic Development Target Area Census Tracts

**Economic Development Target Area
Census Tracts**

- Poverty Rate - Must be at least 20% for each census tract
- Median Family Income - Must not exceed 80% of the greater of
Statewide Median Family Income or Metropolitan Area Median Family Income



DRAFT

AN ACT to authorize Shelby County to levy and collect a privilege tax on development in order to provide that development contribute its fair share of the cost of providing and maintaining public facilities and services made necessary by such development.

WHEREAS, Shelby County is experiencing considerable growth in population and in construction of residential, commercial, and industrial buildings; and

WHEREAS, Shelby County is in need of additional revenues with which to fund capital improvements in order to meet the needs of all of the citizens within the county; and

WHEREAS, the present employment base and tax base can not alone support the additional revenues needed to supply the public facilities and services in order to serve growth without a substantial increase in the property tax rate on existing development; and

WHEREAS, in order to provide and maintain the public facilities and services necessitated by development, it is necessary and appropriate that Shelby County be given authorization to extend its taxing power to enable it to impose a fair and reasonable share of the costs of public facilities necessitated by development on that development, so as not to create an unfair and inequitable burden on all county residents.

NOW, THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This Act shall be known and cited as the “Shelby County Adequate Facilities Tax Act.”

SECTION 2. As used in this Act, unless a different meaning appears from the context:

(a) “Building” means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home.

(b) “Building Permit” means a permit for development issued by Shelby County.

(c) “Capital Improvement Program” means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchases, construction, or replacement of the physical assets of the community are included.

(d) “Certificate of Use and Occupancy” or “Certificate of Occupancy” means a permit for occupancy of a building or structure issued by Shelby County.

(e) “Development” means the construction, building, erection, betterment, or improvement of land providing a building or structure.

(f) “Dwelling Unit” means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis, physically separated from any other room(s) or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

(g) “Floor Area” means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential facilities: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(h) “Governing Body” means the Board of County Commissioners of Shelby County, Tennessee.

(i) “Non-Residential” means the development of any property for any use other than residential use, except as may be exempted by this Act.

(j) “Person” means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(k) “Place of Worship” means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship but does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(l) “Public Buildings” means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee including but not necessarily limited to counties, cities, school districts, or the federal government or any agency thereof.

(m) “Public Facility or Facilities” means a physical improvement undertaken by the county or cities therein, including, but not limited to the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the county and/or cities.

(n) “Residential” means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this Act to authorize Shelby County to impose a tax on development anywhere within the county payable at the time of issuance of a building permit and/or certificate of use and occupancy as set forth in Section 9 of this Act so as to ensure and require that the persons responsible for development share in the burdens of growth by paying their fair share for the cost of new and/or expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of development within Shelby County, except as provided in Section 6 herein, is declared to be a privilege upon which Shelby County may, by resolution of the governing body, levy a tax in an amount not to exceed the rate set forth in Section 7.

SECTION 5. The governing body shall impose the tax authorized herein by resolution after adopting a capital improvements program indicating the need for the cost of constructing public facilities or sustaining and/or revitalizing existing public facilities anticipated to be funded, in part, by this tax and after finding that the need for such public facilities is reasonably related to development. The resolution of the governing body imposing this tax shall state the rate of tax on residential and non-residential development. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this Act.

SECTION 6. This Act shall not apply to development of:

- (a) Public buildings.
- (b) Places of worship.

SECTION 7. For the exercise of the privilege described herein, Shelby County may impose a tax on development not to exceed

- (a) one dollar (\$1.00) per gross square foot of residential development.
- (b) seventy-five cents (\$.75) per gross square foot of non-residential development.

The governing body may develop tax rate schedules by which residential and non-residential uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION 8. The governing body may, by resolution, promulgate policies and guidelines which exempt from this tax any development, residential or non-residential, located in any area of Shelby County that has been designated by the federal government as being eligible for federal incentives and which has a poverty rate of at least twenty percent (20%) and the median family income does not exceed eighty percent (80%) of the greater of the state-wide median family income or the metropolitan area median family income, upon a proper finding that said exemption is necessary to stimulate growth in these economically challenged areas.

SECTION 9. Half of the tax established in this Act shall be collected at the time of application for a building permit for development as herein defined, and the remaining half of the tax shall be collected upon application for a certificate of use and occupancy. If a building permit is not required, the entire tax shall be collected at the time of application for a certificate of use and occupancy. This tax shall be collected by the county official duly authorized to issue building permits or certificates of use and occupancy. The county building official or other responsible official shall receive payment in full in cash or other negotiable instrument as specified by resolution of the county and as approved by the county attorney. No building permit for development as herein defined, or certificate of use and occupancy if no building permit is required, shall be issued in Shelby County unless the tax has been paid in full to the county or else a negotiable instrument approved by the county attorney and payable to the county has been received.

SECTION 10. If a building permit or certificate of use and occupancy is issued by a municipality within Shelby County, the municipality shall, before issuance of the building permit or certificate of use and occupancy, required evidence by a valid certificate executed by the county building official that the full amount of the tax due to the county has been paid in the manner set forth in Section Of this Act. The issuance of a building permit or certificate of use and occupancy by any municipal official, without the appropriate certificate from the county indicating the tax has been paid, shall render the city liable to the county for the sum or sums that would have been collected by the county had the certificate of tax paid been required by the municipality.

SECTION 11. All tax funds collected shall be used for the purpose of providing public facilities and to reduce debt incurred or issued by Shelby County for public facilities, the need for which is reasonably related to development.

SECTION 12. The authority to impose this privilege tax on development in Shelby County is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 13. The provisions of this Act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to

Shelby County. This Act shall be deemed to create an additional and alternative method for Shelby County to impose and collect taxes for the purpose of providing public facilities made necessary by development.

SECTION 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 15. This Act shall have no effect within Shelby County unless it is approved by a two-thirds (2/3) vote of the governing body of Shelby County within ninety (90) days of the date of final passage of this Act. Its approval or non-approval shall be proclaimed by the presiding officer of the governing body and certified by him or her to the Secretary of State.

SECTION 16. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 13.

DEVELOPMENT FEES (2003)

XIII. PRELIM. REVIEW FINAL REVIEW ENGR. REVIEW SEWER CONNECTION WATER CONNECTION PARKLAND DEDICATION SUBDIVISION INSPECTION OTHER

BARTLET T	\$150+ \$3/Lot	\$100+ \$10/lot	\$100+ \$1/lot	\$1,500/lot to \$2,000	\$1,500/lot	\$350	\$48/lot	Water plant expansion – fee varies; water engineering fee – varies, street lights - \$300; drainage control - \$150- \$400
COLLIERVILLE	\$500	\$500	\$100+ \$30/lot	\$850/lot	\$250/lot \$400/lot	0.0315 ac/lot	\$500+ \$200/lot	Streetchlights – actual cost; sewage plant construction fee - \$250-\$750/lot \$300 per lot – police fee
GERMAN TOWN	\$150 \$10/lot	\$150+ \$10/lot	\$500	\$340/lot	\$450/lot	Formula	\$500+ \$80/lot	Water plant expansion fee - \$150/lot; soils test - \$500
LAKELAND	\$500-\$1,000 SUB	\$500- 1,000 SUB	\$200	\$1000/lot	\$230/lot	\$300/per lot	\$500+-\$100/lot	All new fee will be approved on 4-21- 03 Services –plant expansion - \$300 per lot; treatment fee - \$300 per lot; transport fee - \$500 per lot; streetlight - \$300 per lot; soil test - \$500 subdivision
MILLINGTON	\$200 \$1/lot	\$0	\$0	\$500	\$450	\$0	\$50/lot	Water development fee – varies Street lights - \$300
HERNANDO, MS.	\$100+ \$3/lot	\$100+ \$3/lot	\$0	\$1,400/lot	\$600-\$800/lot	\$0	\$0	
OLIVE BRANCH, MS.	\$100+ \$3/lot	\$100+ #3/lot	\$0	\$550/lot \$750/lot	\$550/lot	\$0	\$0	
SOUTHAVEN, MS.	\$200+ \$5/lot	\$299+ \$5/lot	\$0	\$700/lot	\$50/lot	\$350/lot	\$0	
HORN LAKE, MS.	\$150+ \$3/lot	\$150+ \$3/lot	Cost + 20%	\$600/lot	\$250/lot	\$0	Actual cost + 20%	
UNINCORPORATED SHELBY CO.	Inside 3 miles \$860+ \$50/lot Outside 3 miles \$2000+-\$300/lot	\$600.0	\$0	\$240/lot – \$1,240/lot	\$230/lot ²	\$0	\$0	
MEMPHIS ¹	\$300+ \$20/lot	\$200+ \$10/lot	\$1,225+ \$10/lot	\$240/lot – \$1,240/lot	\$230/lot	\$0	\$0	

	<u>Pre. Review</u>	<u>Final Review</u>	<u>Engr. Review</u>	<u>Sewer</u>	<u>Water</u>	<u>Parkland</u>	<u>Inspection</u>	<u>Other</u>	<u>25 Lot Total</u>	<u>Per Lot</u>
Bartlett	\$225	\$350	\$125	\$2,000	\$1,500	\$350	\$1,200		\$5,750	\$230
Collierville	\$500	\$500	\$850	\$850	\$250 .0315 ac/lot		\$5,500	\$7,500	\$15,950	\$638
Germantown	\$400	\$400	\$500	\$8,500	\$11,250 formula		\$2,500		\$23,550	\$942
Lakeland	\$500	\$500	\$200	\$25,000	\$5,750	\$7,500	\$3,000	\$8,000	\$50,450	\$2,018
Millington	\$225	\$0	\$0	\$500	\$450	\$0	\$1,250		\$2,425	\$97
Hernando, MS	\$175	\$175	\$0	\$35,000	\$15,000	\$0	\$0		\$50,350	\$2,014
Olive Branch, MS	\$175	\$175	\$0	\$13,750	\$13,750	\$0	\$0		\$27,850	\$1,114
Southaven, MS	\$325	\$424	\$0	\$17,500	\$1,250	\$8,750	\$0		\$28,249	\$1,130
Horn Lake, MS	\$225	\$225	\$1,000	\$15,000	\$6,250	\$0	\$1,000		\$23,700	\$948
Memphis	\$800	\$450	\$1,975	\$6,000	\$5,750	\$0	\$0		\$14,975	\$599
Unincorporated Shelby*	\$9,500	\$600	\$0	\$31,000	\$5,750	\$0	\$0		\$46,850	\$1,874
Unincorporated Shelby**	\$2,110	\$600	\$0	\$6,000	\$5,750	\$0	\$0		\$14,460	\$578

***(Estimated Costs
Only)***

* Outside 3 Miles of Memphis

** Inside 3 Miles of Memphis

Note: Unincorporated Shelby Sewer fees paid to City of Memphis